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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,966	05/23/2006	Delford Ian Christmas	102792-216 (11366P3 US)	9938
27389	7590	09/17/2007	EXAMINER	
NORRIS, MC LAUGHLIN & MARCUS			MRUK, BRIAN P	
875 THIRD AVE			ART UNIT	PAPER NUMBER
18TH FLOOR			1751	
NEW YORK, NY 10022			MAIL DATE	DELIVERY MODE
			09/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/595,966	CHRISTMAS, DELFORD IAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian P. Mruk	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 21 June 2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-11 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 and 13-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>5/23/06</u> .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. The examiner construes the phrase "essentially free of organic solvents" that is recited in instant claim 5 to mean "less than 0.01% weight of an organic solvent", as defined by applicant on page 19, lines 4-13 of the instant specification.
3. The examiner makes of record that instant claims 1, 11 and 13 recite a broad range of components followed by a series of narrow ranges (i.e. with the terms "preferably" and "such as"). For examination purposes, the examiner asserts that the narrow ranges recited in instant claims 1, 11 and 13 are merely exemplary ranges, and thus, the prior art will be applied against the broadest ranges recited in instant claims 1, 11 and 13. Furthermore, the examiner suggests that applicant should delete the narrow ranges from instant claims 1, 11 and 13, and add new dependent claims that recite the narrow ranges recited in instant claims 1, 11 and 13.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 11, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, for containing the terms “sulfonate type” and “alkoxylate type”. These terms render the claims indefinite, since the addition of the word “type” to an otherwise definite expression (e.g., Friedel-Crafts catalyst) extends the scope of the expression so as to render it indefinite. *Ex parte Copenhaver*, 109 USPQ 118 (Bd. App. 1955). Likewise, the phrase “ZSM-5-type aluminosilicate zeolites” was held to be indefinite because it was unclear what “type” was intended to convey. The interpretation was made more difficult by the fact that the zeolites defined in the dependent claims were not within the genus of the type of zeolites defined in the independent claim. *Ex parte Attig*, 7 USPQ2d 1092 (Bd. Pat. App. & Inter. 1986). See *MPEP 2173.05(b)*. Appropriate correction and/or clarification is required.

7. Claims 11, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, for containing the phrase “characterized in that the composition exclude traditional organic solvents.” The term “traditional organic solvents” renders the claim vague and indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the term “traditional organic solvents”. Furthermore, the specification does not contain guidelines describing what specific solvents are encompassed by the

phrase "traditional organic solvents". Appropriate correction and/or clarification is required.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-11 and 13-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lu, U.S. Patent No. 5,700,768.

Lu, U.S. Patent No. 5,700,768, discloses a floor cleaning composition comprising a nonionic surfactant having an average molecular weight of about 2000 and greater, an amphoteric solubilizer, an anionic surfactant, and water (see abstract and col. 3, lines 41-48). It is further taught by Lu that suitable nonionic surfactants include block

copolymers of ethylene oxide and propylene oxide and alcohol ethoxylates (see col. 3, line 60-col. 6, line 24), that suitable amphoteric hydrotropes include alkylamphodipropionate (see col. 6, lines 33-55 and Examples 1-7), that suitable anionic surfactants include anionic sulfonates and ethoxylated sulfonates (see col. 7, line 7-col. 8, line 20), and that the composition contains 95-99% by weight of water (see col. 8, lines 21-40), per the requirements of the instant invention. It is further taught by Lu that the composition further contains optional ingredients, such as fragrances, pH adjusters, and preservatives (see col. 9, line 1-col. 10, line 46), and that the composition is used in a process of cleaning a hard surface, such as a floor (see col. 10, lines 48-67).

Specifically, note Examples 1-7. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Lu would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition *per se* claims are directed." *In re Sivaramakrishnan*, 213 USPQ 441 (CCPA 1982). Therefore, instant claims 1-11 and 13-15 are anticipated by Lu, U.S. Patent No. 5,700,768.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

11. Claims 1-7, 9-10 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lu et al, U.S. Patent No. 6,268,327.

Lu et al, U.S. Patent No. 6,268,327, discloses a hard surface composition comprising 0-10% by weight of one or more nonionic or amphoteric surfactants, adjuncts, and water to 100%, wherein the composition does not contain organic solvents (see abstract and col. 2, lines 27-49). It is further taught by Lu et al that preferred nonionic surfactants include EO-PO block copolymers that have a molecular weight of 2000-5000, and alcohol ethoxylates (see col. 5, line 10-col. 6, line 58 and col. 8, lines 42-60), that suitable amphoteric surfactants include alkylamphodipropionate (see col. 6, line 66-col. 8, line 19 and Tables 1-2), that water is present in an amount of at least 80% (see col. 10, lines 49-60), that the composition contains optional ingredients, such as pH buffers, perfumes, and antifoaming agents (see col. 13, lines 10-25), and that the composition is used in a process for cleaning hard surfaces, such as floors (see col. 11, lines 49-64), per the requirements of the instant invention. Specifically, note the examples in Tables 1-5. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Lu et al would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition *per se* claims are directed." *In re Sivaramakrishnan*, 213 USPQ 441 (CCPA 1982). Therefore, instant claims 1-7, 9-10 and 13 are anticipated by Lu et al, U.S. Patent No. 6,268,327.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*BPM*

Brian P Mruk  
September 11, 2007

*Brian P. Mruk*

Brian P Mruk  
Primary Examiner  
Art Unit 1751